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**FIDELITY CAPITAL FUNDING, INC.**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

Pursuant to Civil L.R. 3-16, the undersigned certifies that the following listed person, associations of person, firms, partnerships, corporations (including parent corporations) or other entities (i) have a financial interest in the subject matter in controversy or in a party to the proceeding, or (ii) have a non-financial interest in that subject matter or in a party that could be substantially affected by the outcome of this proceeding:

• FIDELITY CAPITAL FUNDING, INC.

DATED: May 23, 2008

LEWIS BRISBOIS BISGAARD & SMITH LLP

By

William P. Buranich  
Attorneys for Defendant  
FIDELITY CAPITAL FU